



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	_8___ VAC 20_- _70___
Regulation title	Regulations Governing Pupil Transportation
Action title	Update the Regulations based on new technology and other changes in pupil transportation in Virginia
Date this document prepared	September 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board of Education is requesting authorization to prepare and submit the Notice of Intended Regulatory Action [as required by the Virginia Administrative Process Act and Executive Order No 25 (1998)] in order to amend 8 VAC 20-70: Regulations Governing Pupil Transportation.

These regulations were last revised in 2004. Since that time, changes have taken place in pupil transportation so that the regulations need to be updated.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Article VIII, § 4, Constitution of Virginia; Code of Virginia §22.1-176; §22.1-177; §22.1-178; §22.1-181; and §22.1-186. The scope of legal authority is defined by Article VIII, § 4, Constitution of Virginia, which vests in the Board of Education the general supervision of the public school system. Section 22.1-16, Code of Virginia, authorizes the Board to promulgate “such regulations as may be necessary to carry out its powers and duties...” Section 22.1-177, Code of Virginia, gives the Board general authority to make regulations relating to the construction, design, operation, equipment, and color of public school buses and the authority to issue an order prohibiting the operation on public streets and highways of any public school bus which does not comply with such regulations. Further, Sections 22.1-176, and 22.1-186, Code of Virginia, authorize the Board to promulgate regulations relating to fees for school transportation. Section 22.1-178 additionally sets forth requirements for school bus drivers and authorizes the Board to furnish forms to school divisions to obtain information from applicants for employment as school bus drivers as required in statute.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

Due to changes taking place in the pupil transportation field, it is believed that changes need to be made to the regulations to bring them up-to-date. Some of the changes include increased speed limits for school buses and new technology being installed on the buses.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The following summarizes a preliminary list of issues to be addressed with changes in the pupil transportation regulations.

- Federal regulations have added a “multifunctional” bus vehicle that needs to be included in the Virginia regulations.
- Due to the increased speed limit allowed for school buses, the regulation allowing standees on buses for the first 30 instructional days each school year needs to be reviewed.
- Maintenance requirements for local school divisions needs to be more clearly defined. Currently, the regulations state that maintenance must be conducted every 30 operating days or 2,500 miles of travel. It was the intent of this language that school divisions would have a maintenance schedule of 30 operating days or 2,500 miles of travel across the fleet, not a combination of these schedules in their fleet.

- Due to the new non-sequential warning lighting system that is being required on school buses, the language on railroad crossings needs to be updated to reflect this new lighting system.
- As new Pupil Transportation Directors are hired, it is deemed imperative that they attend the training class provided by the Department of Education to insure they understand the regulations and requirements for pupil transportation.
- A new section needs to be added to the Regulations which outlines the fleet assessments conducted by the Department of Education. This section would include the items to be assessed by the Department.
- The majority of the section on Activity Vehicles has been moved to the Bus Specifications document which is reviewed for changes by the Board of Education each year. This section needs to be updated to delete items moved to the specifications.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Discussions have been held with local pupil transportation directors and the Department of Education. Alternatives and revisions from the public will be given full consideration during the review process. Ultimately, the current regulations must be revised to bring them up to date with current issues facing pupil transportation.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to June Eanes, Director of Support Services, Virginia Department of Education, P. O. Box Box 2120, Richmond, VA 23218, phone 804-225-2037, fax 804-786-9417, e-mail June.Eanes@doe.virginia.gov. Written comments must include the name and address of the

commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Pupil Transportation Technical Advisory Committee, consisting of a representative from each of the eight regions, will be consulted on the revisions to the Regulations. The proposed regulations will be forwarded to all local school divisions and bus manufacturers and dealers, and will be made available for review and comments by the citizens of Virginia and any other interested parties.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Neither current law nor the pupil transportation regulations require students to ride public school buses. However, to the extent that students ride public school buses, these regulations will provide standards and requirements to help ensure the safety of children and increase the effectiveness of pupil transportation services in school divisions.

The changes proposed will increase the safety of children and the knowledge and effectiveness of those providing pupil transportation in Virginia public schools.

The provision of safe, free transportation to and from public school can provide economic assistance to parents by eliminating the need for parents to transport their children to and from public school.